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LIBERTY MUTUAL FIRE INSURANCE
11 COMPANY

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 LARGO CONCRETE, INC., a
California Corporation; N.M.N.
15 CONSTRUCTION, INC., a California
Corporation,

16 Plaintiffs,

17 v.

18 LIBERTY MUTUAL FIRE
19 INSURANCE COMPANY, a
Massachusetts Corporation, and DOES
20 1 through 100, inclusive.

21 Defendants.

Case No. C07-04651 CRB (ADR)

Hon. Charles R. Breyer
[Complaint Filed: September 10, 2007]

**STIPULATION AND [PROPOSED]
ORDER CONTINUING
(1) HEARING ON MOTION TO
DISQUALIFY; AND (2) CASE
MANAGEMENT CONFERENCE
AND RELATED DEADLINES.**

[Declaration of Nicholas Roxborough
filed concurrently]

22 AND RELATED COUNTERCLAIM

23
24 **STIPULATION**

25 This Stipulation is entered into by and between plaintiff Largo
26 Concrete, Inc. and plaintiff and counterdefendant N.M.N. Construction, Inc.
27 (collectively "Plaintiffs"), by and through their attorney of record, Nicholas
28

1 Roxborough Esquire, of Roxborough, Pomerance & Nye LLP, and defendant and
2 counterclaimant Liberty Mutual Fire Insurance Company ("Liberty Mutual"), by and
3 through its attorney of record, Frank Falzetta, Esquire of Sheppard, Mullin, Richter
4 & Hampton LLP, with respect to the following facts:

5
6 WHEREAS, on September 10, 2007, Plaintiffs filed a Complaint
7 against Liberty Mutual;

8
9 WHEREAS, on September 10, 2007, the Court issued an Order Setting
10 Initial Case Management Conference and ADR Deadlines ("CMC Order"), which
11 directs the parties to (i) meet and confer regarding their initial disclosures, early
12 settlement, ADR process selection, and discovery plan, and file a Joint ADR
13 Certification. by November 26, 2007, and (ii) file their Rule 26(f) Report, complete
14 initial disclosures, and file a Case Management Statement by December 7, 2007;

15
16 WHEREAS, the Court has set an Initial Case Management Conference
17 ("CMC") to occur at 8:30 a.m. on December 14, 2007;

18
19 WHEREAS, on October 3, 2007, Liberty Mutual filed an Answer to
20 Plaintiffs' Complaint and a Counterclaim against defendant N.M.N. Construction,
21 Inc. for breach of contract;

22
23 WHEREAS, on October 23, 2007, Liberty Mutual filed a Motion to
24 Disqualify Roxborough, Pomerance & Nye (the "Roxborough firm") from
25 representing Plaintiffs in this matter;

26
27 WHEREAS, Liberty Mutual's Motion to Disqualify the Roxborough
28 firm is currently set for hearing before this Court on November 30, 2007;

1 WHEREAS during the week of November 26, 2007 Mr. Roxborough
2 must report for jury duty at Los Angeles County Superior Court, which would
3 prevent him from being able to attend the November 30, 2007 hearing on Liberty
4 Mutual's Motion to Disqualify;

5
6 WHEREAS, Mr. Roxborough has a very heavy schedule on his
7 calendar during the weeks of October 29 and November 5, 2007 such that preparing
8 a thorough opposition to Liberty Mutual's Motion to Disqualify by the current
9 November 9, 2007 deadline would be very difficult;

10
11 WHEREAS, Liberty Mutual cannot participate in the early meeting of
12 counsel with the Roxborough firm and discuss early settlement, a discovery plan,
13 etc., because it believes that the Roxborough firm is ethically prohibited from
14 representing Plaintiffs adverse to Liberty Mutual in this matter;

15
16 WHEREAS, until the Court rules on Liberty Mutual's Motion to
17 Disqualify the Roxborough firm, it is at the very least premature for the parties to
18 comply with the deadlines set by the Court's CMC Order or participate in a CMC.

19
20 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED
21 by and between the parties that:

22
23 1. The hearing on Liberty Mutual's Motion to Disqualify the
24 Roxborough Firm is continued to December 14, 2007;

25
26 2. The CMC is continued to January 11, 2008; and
27
28

1 3. All other pre-CMC deadlines are continued as set forth in the
2 Court's CMC Order.

3
4 Dated: October 30, 2007

5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

6
7 By 

8 FRANK FALZETTA

9 Attorneys for Defendant and Counterclaimant
10 LIBERTY MUTUAL FIRE
INSURANCE COMPANY

11 Dated: October 30, 2007

12 ROXBOROUGH, POMERANCE & NYE LLP

13
14 By 

15 NICHOLAS ROXBOROUGH

16 Attorneys for Plaintiffs and Counterdefendant
17 LARGO CONCRETE, INC. and
18 N.MN. CONSTRUCTION, INC.

19 **ORDER**

20
21 The Court, having read and considered the foregoing Stipulation, and
22 good cause appearing therefore,

23
24 IT IS HEREBY ORDERED as follows:

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26 1. The hearing on Liberty Mutual's Motion to Disqualify the
27 Roxborough Firm is continued to December 14, 2007 at 10:00 a.m. in Courtroom 8;
28

Dated: November ___, 2007

THE HON. CHARLES R. BREYER
DISTRICT COURT JUDGE